

REMARKS

The present application includes claims 1-22. Claims 1-22 have been rejected by the Examiner. By this response, claims 1, 7 and 13 have been amended.

Claims 1, 7 and 13 have been amended to clarify that the remote device controls a **medical diagnostic imaging system**, rather than a simple display, such as a television. Such a remote control device has not been found integrated with a medical diagnostic imaging system and represents a novel, useful and nonobvious improvement in medical diagnostic imaging system control. Thus, the Applicant respectfully submits that the pending claims recite patentable subject matter and should be allowed.

Claims 1-3, 5-8, 11-19 and 21-22 were rejected under 35 U.S.C. 102(b) as being anticipated by Gaughan et al., U.S. Pat. No. 5,589,893 (“Gaughan”). However, Gaughan relates to an on-screen remote control of a television receiver. See, e.g., Abstract. Gaughan does not relate to a medical diagnostic imaging system. Gaughan has no applicability to a diagnostic imaging system. Furthermore, Gaughan does not teach or suggest use in a medical diagnostic imaging system environment. Rather, Gaughan discusses a remote control that allowed a user to control a television screen. See, e.g., Abstract. While a medical diagnostic imaging system includes a display, the display is not a medical diagnostic imaging system. Nor is the display an imaging system, in the sense that an imaging system is a system that obtains an image of an object. A television or other display simply displays an image or picture that has already been obtained. Thus, Gaughan clearly does not teach or suggest all the limitations of claims 1-3, 5-8,

11-19 and 21-22, as recited above and as amended. Therefore, the Applicant respectfully submits that the Examiner's rejection has been overcome, and the claims should be allowed.

Additionally, Gaughan does not disclose a mousing device integrated with an instrument. Gaughan simply discloses the remote control itself, rather than a remote control integrated with another instrument, as recited in claim 21. See, e.g., Fig. 2 and col. 2, ln. 65 – col. 3, ln. 8. Furthermore, the remote control of Gaughan is not integrated into an imaging instrument or medical instrument, as recited in claim 22. See, e.g., Fig. 2 and col. 2, ln. 65 – col. 3, ln. 8. Therefore, the Applicant respectfully submits that claims 21-22 should be allowable.

The Applicant now turns to the rejection of claims 4 and 10 under 35 U.S.C. 103(a) as being unpatentable over Gaughan in view of Chang, U.S. Pat. No. 5,298,919 ("Chang"). As previously discussed, Gaughan does not teach or suggest a remote device in a medical diagnostic imaging system. Furthermore, as stated by the Examiner, Gaughan does not disclose a wheel on a handheld device. Chang discloses a wheel in a computer mouse but does nothing to cure the fundamental defects of Gaughan with respect to the claimed invention, which is integrated into a medical diagnostic imaging system. Therefore, the Applicant respectfully submits that claims 4 and 10 are allowable for at least the reasons stated above.

The Applicant now turns to the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Gaughan in view of Applicant's "admitted" prior art. As previously discussed, Gaughan does not teach or suggest a remote device in a medical diagnostic imaging system. Furthermore, as stated by the Examiner, Gaughan does not disclose use of a voice command. Additionally, while voice command has been used with limited success in imaging

systems, voice command has not been used in conjunction with the remote handheld device in a medical diagnostic imaging system, as recited in claim 9. Therefore, the Applicant respectfully submits that claims 4 and 10 are allowable for at least the reasons stated above.

The Applicant now turns to the rejection of claim 20 under 35 U.S.C. 103(a) as being unpatentable over Gaughan. As previously discussed, Gaughan does not teach or suggest a remote device in a medical diagnostic imaging system. Furthermore, as stated by the Examiner, Gaughan does not disclose using a fastener in a handheld device to attach the device to a user. The Examiner states that use of a fastener is known with cellular phones, so it would be obvious for a handheld device as well. The Applicant respectfully disagrees. Use of a fastener with a cellular phone does not necessarily translate to use of a fastener with a handheld control device. The two devices are different devices with very different applications and represent two different fields of technology. Therefore, the two devices are not analogous, and the use of a fastener in a cellular phone does not teach the use of a fastener with a handheld control device in a medical diagnostic imaging system. The Applicant respectfully submits that claim 20 should be allowable for at least these reasons.

The Examiner has made several statements that, because of the manner in which the statements are worded, could be interpreted as the Examiner asserting Official Notice of the subject of the statements. If the Examiner is asserting Official Notice that the subject of the statements are common knowledge, the Applicant respectfully traverses the Examiner's assertions as further set forth below. Alternatively, if the Examiner's assertions are based on the

personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the Examiner’s assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should only be asserted when the subjects asserted to be common knowledge are “capable of instant and unquestionable demonstration as being well-known.” That is, the subjects asserted must be of “notorious character” under MPEP § 2144.03(A).

However, the Applicant respectfully submits that the subject matter of the Examiner’s assertion of Official Notice is not well-known in the art as evidenced by the searched and cited prior art. The Applicant respectfully submits that the Examiner has performed “a thorough search of the prior art,” as part of the Examiner’s obligation in examining the present application under MPEP § 904.02, and none of the prior art taught or suggested the subject matter of the Examiner asserts is well known.

In addition, the Examiner has not made any showing that the subject matter of the Examiner’s assertion of Official Notice was well-known in the art at the time the invention was made, as required under MPEP § 2141.01(III). Specifically, MPEP § 2141.01(III) specifically states that the content of the prior art is determined at the time the invention was made in order to avoid impermissible hindsight. MPEP § 2141.01(III) states that “It is difficult but necessary that the decisionmaker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made (often as here many years).” Consequently, the Examiner must establish that the subject matter of the Examiner’s assertion of Official notice was well-known in the art when the present invention was made, rather than that the subject matter is well-known at the present time, in order to comply with MPEP § 2141.01(III) and avoid the use of impermissible hindsight. The Applicant respectfully submits that even if the subject

matter of the Examiner's assertion of Official Notice is presently well-known, the Examiner has presented no evidence that the subject matter was well-known at the time that the present invention was made.

Furthermore, the Examiner has not made any showing that the subject matter of the Examiner's assertion of Official Notice was well-known in the field of art to which the invention is directed. The Applicant respectfully submits that even if the subject matter of the Examiner's assertion of Official Notice is well-known in one field of art, the subject matter may not be well-known in the present field of art. The Examiner has presented no evidence that the subject matter was well-known in the present field of art.

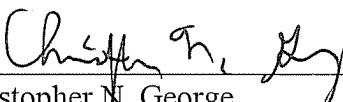
CONCLUSION

It is submitted that the present application is in condition for allowance and a Notice of Allowability is respectfully solicited. If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of GTC, Account No. 070845.

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Respectfully submitted,


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